

HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b))

Description of the case.

W.P. No.3123 of 2001 (SS)

Kailash Chandra & another vs. Union of India and another

Approved for reporting.

~~Not approved for reporting~~

Date of decision. 11.11.2003

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No.3123 of 2001 (SS)

1. Kailash Chandr s/o Sri Purnanand
R/o village & post Tunwala
District Dehradun.
 2. Dilip Sharma s/o Sri Kala Ram
R/o 10, Raja road, Dehradun
- Petitioners

Versus

1. Union of India
 2. Commandant, Indian Military Academy,
Dehradun.
- Respondents

Sri Rakesh Thapliyal, Advocate for the petitioners
Standing Counsel (Central) for the respondents.

Hon'ble Rajesh Tandon, J.

By the present writ petition the petitioners have prayed for the issue of a writ, order or direction in the nature of mandamus directing the respondent no.2 not to fill up two posts of M.T. Drivers (one post of Ex-soldier and one post of General category) in pursuance of advertisement dated 27.4.2001.

Brief facts giving rise to the present writ petition are that petitioners were appointed as daily wagers on 4.10.1995 on the post of M.T. Drivers. The petitioner has continuously worked till March 1997. Thereafter the petitioners submitted their applications and

requested for regularisation of their services in view of Government order dated 31.1.1999 but the respondents did not consider the request of the petitioners. Therefore, the petitioners have filed a writ petition No. 42116 of 1997 (Kailash Chandra vs. State of U.P. & others) in Allahabad High Court . Hon'ble Mr. Justice O.P. Garg on 16.12.1997 has passed the order directing the respondent no.2 to consider the claim of the petitioner and to pass appropriate order within a period of two months but respondent no.2 has summarily rejected the claim of the petitioners vide order dated 20.2.1998.

The petitioners have further filed another writ petition No. 11867 of 1998 which has been rejected vide order dated 1.12.1999. The petitioners filed Special Appeal No.1377 of 1999 against said order which is still pending. In the mean while respondents have made publication in news paper "Doon Darpan" for recruitment of 6 M.T.Drivers out of which one post is reserved for ex-soldier.

The petitioners have stated that thereafter, they went to the officer of respondent no.2 and requested him to accept their applications for the said posts of drivers but he refused to take the application on the pretext that the case of the petitioners are pending before Allahabad High Court in Special Appeal No.1377 of 1999.

The petitioners have submitted that if all the posts are filled up and in the event special appeal being allowed petitioners' right shall

be prejudiced. The present writ petitioner has been filed only in order to secure two seats which otherwise is not available to the petitioners at present.

Considering the entire case of the petitioners so far as the vacancy in respect of ex soldier is concerned, suffice it to observe that the counsel for the respondents has very fairly conceded that in the event special appeal is allowed, the petitioners will be given due weightage.

In view of the statement of the counsel for the respondents, relief of mandamus at present cannot be granted in favour of the petitioners so as to block the recruitment of the drivers completely. However, after decision of the Special Appeal petitioners may approach the appropriate authorities for future vacancies.

Subject to the aforesaid observations the writ petition is dismissed. No order as to costs.

11.11.2003
Dhyani

(Rajesh Tandon, J.)